

**CIVIL SERVICE COMMISSION MINUTES**  
**OCTOBER 7, 2009**

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Tower 6 of the County Administration Center, 1600 Pacific Highway, San Diego, California.

Present were:

A.Y. Casillas  
Francesca Krauel  
W. Dale Bailey  
William O'Connor

Absent was:

Barry I. Newman

Comprising a quorum of the Commission

Support Staff Present:

Patt Zamary, Executive Officer  
Karen Landers, Senior Deputy County Counsel  
Selinda Hurtado-Miller, Reporting

**Approved**  
**Civil Service Commission**  
**November 4, 2009**

**SAN DIEGO COUNTY CIVIL SERVICE COMMISSION  
REGULAR MEETING MINUTES  
OCTOBER 7, 2009**

2:00 p.m.            CLOSED SESSION: Discussion of Personnel Matters  
                         and Pending Litigation

2:30 p.m.            OPEN SESSION: Tower 6, 1600 Pacific Highway, San  
                         Diego, California

---

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
6,7,8,10		5	11,12,13

COMMENTS: Motion by Krauel to approve all items not held for  
discussion; seconded by Bailey. Carried.

**CLOSED SESSION AGENDA**

County Administration Center, Room 400B  
(Notice pursuant to Government Code Sec. 54954.2)  
Members of the public may be present at this  
location to hear the announcement of the  
closed session agenda.

A. Commissioner Casillas: CONSIDERATION OF PUBLIC  
EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE (GOV. CODE SEC.  
54957(b)) **Dawn Jimenez**, Personnel Aide, Department of  
Parks and Recreation, alleging discrimination by the  
County Library.

**OPEN SESSION AGENDA**

County Administration Center, Tower 6

**MINUTES**

1. Approval of the Minutes of the regular meeting of September  
2, 2009.

**Approved.**

## **CONFIRMATION OF REASSIGNMENTS AND ASSIGNMENTS**

2. Commissioner O'Connor: **Jerome Maull**, Residential Care Worker II, appealing a Final Order of Suspension and Charges from the Health and Human Services Agency. (Commissioner Newman previously assigned.)

**Confirmed.**

3. Commissioner Bailey: **Donovan Jacobs, Esq.**, on behalf of **2009-09**, appealing an Order of Termination and Charges from the Sheriff's Department.

**Confirmed.**

4. Commissioner Krauel: **Earnest Davis**, Associate Air Pollution Control Engineer, appealing a Final Order of Removal and Charges from the Air Pollution Control District.

**Confirmed.**

## **DISCRIMINATION**

### **Complaints**

5. **Yvonne Donnelly**, Child Support Officer, Department of Child Support Services, alleging discrimination by the Department of Child Support Services.

RECOMMENDATION: Assign Commissioner Casillas as Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

**Staff recommendation accepted.**

### **Findings**

6. Commissioner Casillas: **Dawn Jimenez**, Personnel Aide, Department of Parks and Recreation, alleging discrimination by the County Library.

### **FINDINGS AND RECOMMENDATIONS:**

At the regular meeting of the Civil Service Commission (Commission) on June 3, 2009, the Commission appointed A. Y. Casillas (Investigating Officer) to investigate the complaint submitted by Dawn Jimenez (Employee) which alleged discrimination by the County Library. In accordance with the established rules and procedures of the Commission, the matter was concurrently referred to the Office of Internal

Affairs (OIA) for investigation. The OIA concluded the investigation and has reported its findings to the Commission. In her complaint, Employee alleged discrimination for providing testimony at the Civil Service Commission hearing of a co-worker. This Investigating Officer has reviewed all documentation submitted in this matter, including the report of OIA along with its exhibits. The Investigating Officer also listened to Employee's testimony at the prior Civil Service Commission hearing. The Investigating Officer finds that Employee did not provide sufficient evidence for her claim of discrimination.

In response to the discrimination complaint filed by Employee, the Library presented evidence that Employee had performance deficiencies justifying her failure on probation. A probationary employee is at will and may be terminated from the probationary position (i.e., "failed on probation") for any reason or no reason, as long as it is not a discriminatory reason. The evidence presented by the Library was sufficient to meet this standard. The only evidence of discrimination presented by Employee was the proximity in time of her Civil Service Commission hearing testimony to her failure on probation.

Although a probable cause finding that discrimination occurred was not supported by the evidence, issues in the supervision of the complainant, a probationary employee, require comment by the Investigating Officer, with additional recommendations for follow-up. Charter Section 907.1 and Civil Service Rule 1.1.1 provides "[i]n connection with an investigation, the Commission may make any necessary orders, including, but not limited to, back pay and classification adjustments, to carry out the provisions of the Charter and the Civil Service Rules." Pursuant to these powers, the Investigating Officer is recommending that the Department of Human Resources and the Library review and improve the Library's human resource management practices because it is apparent that the Library's failure to provide Employee with a mid-probationary review or to otherwise put her on notice of performance problems contributed to Employee's perception that her failure on probation was discriminatory.

It is therefore recommended that Employee's Rule VI discrimination complaint be denied; that the Director of the Department of Human Resources assist the Library Director to improve the Library's human resources management practices so that the concerns identified by the Commission in this report are addressed; that the Director of the Department of Human Resources report back to the Commission within 90 days

to report progress in the improvement of the Library's practices; and that the Commission approve and file this report with the appended OIA Summary Investigative Report with a finding of no probable cause to believe that the Complainant has been unlawfully discriminated against.

**Motion by Casillas to approve Findings and Recommendations; seconded by Krauel. Carried.**

<b>AYES:</b>	<b>CASILLAS, KRAUEL, BAILEY, O'CONNOR</b>
<b>NOES:</b>	<b>NONE</b>
<b>ABSENT:</b>	<b>NEWMAN</b>
<b>ABSTENTIONS:</b>	<b>NONE</b>

## **SELECTION PROCESS**

### **Appeals**

7. **Kathryn Ann Vasquez**, Human Services Specialist, Health and Human Services Agency, appealing the Department of Human Resources' determination that she is disqualified from competing in the selection process for the classification of Supervising Human Services Specialist.

RECOMMENDATION: Deny Request.

Ms. Vasquez explained to the Commission why she believes she is qualified for the classification of Supervising Human Services Specialist.

Rhondie Taylor, Human Resource Analyst, DHR, explained that Ms. Vasquez' performance is not the issue. The minimum qualifications were not met by Ms. Vasquez at the time of recruitment. Commissioner Krauel stated that the County has a right to determine minimum criteria for job qualifications, and for that reason, she supports staff's recommendation.

**Motion by Bailey to accept staff recommendation; seconded by O'Connor. Carried.**

<b>AYES:</b>	<b>CASILLAS, KRAUEL, BAILEY, O'CONNOR</b>
<b>NOES:</b>	<b>NONE</b>
<b>ABSENT:</b>	<b>NEWMAN</b>
<b>ABSTENTIONS:</b>	<b>NONE</b>

// //

// //

## **OTHER MATTERS**

### **Seal Performance Appraisal**

8. **Diane Petach**, Program Specialist II, Health and Human Services Agency, requesting the sealing of a performance appraisal covering the period April 23, 2008 to April 22, 2009.

RECOMMENDATION: Grant Request.

Dennis Floyd, Sr. Deputy County Counsel, on behalf of the Agency and the Department of Human Resources, stated performance appraisals are important tools that are required to be issued timely. Admittedly, he explained, this performance appraisal was 3 weeks late, however, that does not give reason for an automatic sealing by the Commission. He further stated that the Commission must weigh the prejudice to employee due to the late issuance of the performance appraisal, and a void the sealing would create in the employee's personnel record. Managers and supervisors were disciplined by the Agency regarding the delay in presenting Ms. Petach with her performance appraisal. Mr. Floyd contends that there has not been any prejudice to employee by the Agency. He requested that the performance appraisal not be sealed, but that the Commission allow the Agency to deal with managers and supervisors via discipline, performance appraisals and training. Commissioner Krauel asked Mr. Floyd for the reason the performance appraisal was issued 3 weeks late, to which Mr. Floyd responded that he could not answer for the Agency, but that discipline was still pending regarding this matter.

Ms. Petach respectfully requested the sealing of her performance appraisal because procedure was violated. Commissioner Krauel asked Ms. Petach in what way she had been harmed. Ms. Petach responded that she did not have a most recent performance appraisal while seeking a transfer to other departments, which could possibly send up "red flags".

**Motion by Krauel to deny staff recommendation;  
seconded by O'Connor. Carried.**

<b>AYES:</b>	<b>CASILLAS, KRAUEL, BAILEY, O'CONNOR</b>
<b>NOES:</b>	<b>NONE</b>
<b>ABSENT:</b>	<b>NEWMAN</b>
<b>ABSTENTIONS:</b>	<b>NONE</b>

9. Public Input. **None.**

## **INFORMATION**

10. Report to Civil Service Commission regarding training and performance issues in the Behavioral Health Division of the Health and Human Services Agency. (Referred from the August 5, 2009 meeting)

Commissioners Krauel and Bailey commented that the report that was requested from HHSA was disappointing as it was not informative and did not address the concerns the Commission had set forth at its August 5, 2009 meeting. The Commission will leave this as an "information only" item with the hopes that in the future, departments will be informative and pro-active regarding the Commission's concerns and requests.

11. Brad Fields, Esq., on behalf of **2009-04**, withdrawal of appeal of an Order of Pay Step Reduction and Charges from the Sheriff's Department. (Commissioner Bailey)

**Withdrawn.**

12. Fern Steiner, Esq., on behalf of **Miguel Mendoza**, Registered Veterinary Technician, withdrawal of appeal of his placement on Compulsory Leave by the Department of Animal Services. (Commissioner Newman)

**Withdrawn.**

13. Solita Kampley, Senior Worksite Organizer, SEIU Local 221, on behalf of **Patricia Egipto**, Account Clerk, withdrawal of appeal of a Final Order of Suspension and Charges from the Treasurer-Tax Collector's Office. (Commissioner Bailey)

**Withdrawn.**

ADJOURNED: 3:25 p.m.

**NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION:**

**NOVEMBER 4, 2009**

### **ASSISTANCE FOR THE DISABLED:**

Agendas and records are available in alternative formats upon request. Contact the Civil Service Commission office at (619) 531-5751 with questions or to request a disability-related accommodation. Individuals requiring sign language interpreters should contact the Americans with Disabilities Coordinator at (619) 531-5205. To the extent reasonably possible, requests for accommodation or assistance should be submitted at least 24 hours in advance of the meeting so that arrangements may be made. An area in the front of the room is designated for individuals requiring the use of wheelchair or other accessible devices.